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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P,

Plaintiff,

v.

JOHN MURPHY,

Defendant.

CASE NO. 07-03737 VRW

Related Cases:  
C07-03739-VRW; C07-03736-VRW;  
C07-03732-VRW; C07-03738-VRW;  
C07-03741-VRW

**[PROPOSED] ORDER ON PLAINTIFF'S  
MOTION TO STRIKE, OR,  
ALTERNATIVELY MOTION FOR  
JUDGMENT ON PLEADINGS**

[Filed concurrently with Opposition to Motion,  
and Memorandum of Points]

Date of Hearing: May 8, 2008  
Time: 2:30 p.m.  
Ctrm: 6, 17<sup>th</sup> Floor

The matter came before the Court on May 8, 2008, upon the Plaintiff's Motion to Strike  
Affirmative Defenses, or, Alternatively for Judgment on the Pleadings.

1 After considering the moving papers of the parties and hearing arguments regarding the  
2 same, IT IS HEREBY ORDERED THAT the Plaintiff's Motion to Strike Affirmative Defenses,  
3 or, Alternatively Motion for Judgment on the Pleadings is DENIED.  
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6 Dated: \_\_\_\_\_  
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10 UNITED STATES DISTRICT JUDGE  
11 HON. VAUGHN R. WALKER  
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**PROOF OF SERVICE**

I, Damien C. Powell, admitted *pro hac vice* in the United States District Court, Northern District of California, declare:

I am a citizen of the United States of America and a resident of the Commonwealth of Massachusetts. I am over the age of eighteen (18) years. My business address is Donoghue, Barrett & Singal, P.C., 1 Beacon Street, Boston MA 02108. The business address of John O'Connor, Esq., the local counsel to the defendant, is One Embarcadero Center, Suite 1020, San Francisco, California 94111.

On April 22, 2008, I served the foregoing document(s) described as **[PROPOSED] ORDER ON PLAINTIFF'S MOTION TO STRIKE, OR, ALTERNATIVELY MOTION FOR JUDGMENT ON PLEADINGS** on the interested parties, at the addresses as stated below.

**Via First Class Mail:**

**Arlene P. Messinger**  
US Small Business Administration  
409 3rd Street, SW, 7<sup>th</sup> Floor  
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**Via Electronic Mail:**

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**Via Federal Express Overnight:**

Hon. Vaughn R. Walker  
U.S. District Court, Northern District  
450 Golden Gate Avenue  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
April 22, 2008, in Boston, Massachusetts.

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Damien C. Powell